

Information for the Trade Community Implementation of Lacey Act Declaration

This information updates and supplements information published in the
Federal Register on February 3, 2009.

INTRODUCTION

The Lacey Act (16 U.S.C. 3371 *et seq.*, the Act) as amended makes it unlawful to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any plant, with some limited exceptions, taken or traded in violation of the laws of the United States, a U.S. State or a foreign country. On February 3, 2009, the U.S. Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) published a notice in the *Federal Register* announcing a revised enforcement phase in plan for the Act's requirement for a plant product import declaration (see 74 *Fed. Reg.* 5911 for details). The revised plan identifies a list of products and the associated Harmonized Tariff Schedule (HTS) Chapter or Heading as to which the requirement for a Plant Product Declaration Form (PPQ 505) is anticipated to be enforced over the next eighteen months.

PPQ 505: PLANT PRODUCT DECLARATION

A declaration is required to obtain release of a covered product. Customs and Border Protection (CBP) has automated the process for collecting the PPQ 505 data elements. Data will be transmitted to CBP's Automated Commercial System (ACS) through the Automated Broker Interface (ABI) in the cargo release module. Electronic filing of the PPQ 505 declaration will not preclude remote location filing. Additional information on how to electronically file the PPQ 505 data can be found in the Participating Government Agencies chapter in the Customs and Trade Automated Interface Requirements (CATAIR) at <http://www.cbp.gov>. An importer has the option to complete and present a paper PPQ 505 for each line. If a paper form of the PPQ 505 is used, the importer must mail the form to USDA at the address on the form.

Electronic submission of the required data elements will be accepted starting April 1, 2009. Enforcement of the data collection requirement will begin May 1, 2009. Importers are encouraged to use the 30-day period starting April 1, 2009, for live testing of the electronic system. The government will rely on the data collected in its reports to Congress and in determining if any refinements to the electronic system are needed. The 30-day delay of enforcement will allow the government time to complete its work on integrating the Lacey declaration requirement into CBP's expedited border release programs. It is not anticipated that enforcement of subsequent phases will be delayed.

CBP expects and urges most importers to use the electronic system to file the declaration. If an entry package is presented to CBP to obtain release, the CBP 3461 form will be annotated in Box 29 to indicate "PPQ 505-Paper" if the declaration is presented in paper or "PPQ 505-ABI" if the declaration information was submitted electronically. If a paper form is submitted to CBP as part of the entry package, the paper form will be returned to the importer (or importer's representative) for mailing to USDA. CBP will not mail forms to USDA.

As a reminder, providing false or misleading information to the U.S. government can result in civil or criminal actions against any involved party and may result in the seizure and forfeiture of the merchandise.

COVERED GOODS FOR ENFORCEMENT OF THE DECLARATION

As described in the February 3, 2009 notice, enforcement of the declaration requirement will begin with the tariff schedule headings shown in the following table. Additional chapters are scheduled for enforcement starting October 1, 2009 and April 1, 2010 (see 74 *Fed. Reg.* 5911 for details).

HTS Chapters scheduled for the first phase of enforcement of the plant import declaration

HTS code	Brief description
4401	Fuel wood
4403	Wood in the rough
4404	Hoopwood, poles, posts, stakes
4406	Railway and tramway sleepers
4407	Wood sawn or chipped lengthwise
4408	Sheets for veneering
4409	Wood continuously shaped
4417	Tools, tool handles, broom handles
4418	Builders' joinery

BACKGROUND

The Lacey Act is an important tool in our government's efforts to support other countries, as well as our own States, in the conservation of protected plant and wildlife resources. The Act was amended with the enactment of the 2008 Farm Bill. Amendments to the Act made it unlawful to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce a broader range of plants, with some limited exceptions, taken or traded in violation of the laws of the United States, a U.S. State, or other countries. It also made it unlawful to make or submit any false record, account or label for any false identification of, this broader group of plants covered by the Act. Finally, it introduced the requirement for an import declaration for plants entering the United States and provides for both civil and criminal penalties for failure to comply.

APHIS has been designated the lead regulatory agency for these new requirements and CBP is assisting APHIS with the electronic collection of data to fulfill the import declaration requirement. CBP will continue to work as part of the interagency working group, consulting with trading partners, importers, exporters, and other interested groups as the provisions of the Act are fully implemented. The most current information on implementation of the amended Lacey Act can be found at: http://www.aphis.usda.gov/plant_health/lacey_act/index.shtml.

If you have any CBP related questions, please contact Ms. Anne Rothrock, Office of International Trade, at (202) 863-6573.